FAIR POLITICAL PRACTICES COMMISSION
Memorandum

To: Chairman Randolph, Commissioners Downey, Karlan, Knox and Swanson

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Subject: Pre-Notice Discussion: Adoption or Amendment to Conflict-of-Interest Regulations (General Plan Decisions)

Date: May 23, 2003

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I. INTRODUCTION

This memorandum discusses three possible regulatory approaches addressing the application of the "public generally" exception to general plan decisions. These include: 1) the proposal submitted by the County of San Diego covering general plan amendments, 2) a staff proposal to amend regulation 18707.1 but only with respect to real property interests, and 3) a staff option presented as an alternative to the San Diego proposal. The staff recommends the Commission reject the San Diego proposal and continue to explore the staff options or other alternatives, including enhancing the Commission's education efforts regarding the application of the Commission's existing "public generally" exception regulations.

II. THE "PUBLIC GENERALLY" EXCEPTION

Government Code section 87100 of the Political Reform Act ("Act")[1] provides:

> "No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

Section 87103 further provides that a public official has a "financial interest" within the meaning of section 87100 if it is "reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on [any of several enumerated economic interests.]"

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[1] All citations are to Government Code sections 81000-91014 unless otherwise noted. All regulatory citations are to Commission regulations at Title 2, sections 18109 – 18997, of the California Code of Regulations.

Once a public official determines that it is reasonably foreseeable that a decision will have a material financial effect on his or her economic interests, the official may only participate in the decision if a "public generally" exception or the "legally required participation" exception found in section 87101 (and regulation 18708) apply. Regulations 18707 – 18707.9 comprise several "public generally" exceptions which give effect to the phrase "distinguishable from its effect on the public generally" contained in section 87103. The general exception (regulation 18707.1) provides that "the material financial effect of a governmental decision on a public official's economic interests is indistinguishable from its effect on the public generally if both subdivisions (b)(1) and (b)(2) of this regulation apply."

A. Significant Segment Requirement

Subdivision (b)(1) requires that the governmental decision financially affect a "significant segment" of the public generally. The specific segments are designed to "match" the particular economic interest or interests of the public official that resulted in his or her disqualification. Section 87103 identifies six potentially disqualifying economic interests. These include investment interests, interests in real property, sources of income, sources of gifts, employment in or high-level official in a business entity, and personal financial effects on the official or members of his or her immediate family. (Sections 87103(a) – (e).)

When individuals constitute the disqualifying financial interest, subdivision (b)(1)(A) of regulation 18707.1 defines the "significant segment" as:

> "(A) Individuals. For decisions that affect the personal expenses, income, assets, or liabilities of a public official or a member of his or her immediate family, or that affect an individual who is a source of income or a source of gifts to a public official, the decision also affects:
> (i) Ten percent or more of the population in the jurisdiction of the official's agency or the district the official represents; or
> (ii) 5,000 individuals who are residents of the jurisdiction."

When ownership in property triggers the conflict of interest, the segment constitutes only property owners. Subdivision (b)(1)(B) defines the segment as:

> "(B) Real Property. For decisions that affect a public official's real property interest, the decision also affects:
> (i) Ten percent or more of all property owners or all homeowners in the jurisdiction of the official's agency or the district the official represents; or
> (ii) 5,000 property owners or homeowners in the jurisdiction of the official's agency."

A real property interest can include ownership in residential and commercial property and includes leaseholds.

When an investment interest, an official's position in a business entity, or a business as a source of gift or income triggers the conflict of interest, an entirely different segment applies. Subdivision (b)(1)(C) provides:

> "(C) Business Entities. For decisions that affect a business entity in which a public official has an economic interest the decision also affects 2,000 or twenty-five percent of all business entities in the jurisdiction or the district the official represents, so long as the effect is on persons composed of more than a single industry, trade, or profession. For purposes of this subdivision, a not for profit entity other than a governmental entity is treated as a business entity."

The remaining subdivisions provide:

> "(D) Governmental Entities. For decisions that affect a federal, state or local government entity in which the public official has an economic interest, the decision will affect all members of the public under the jurisdiction of that governmental entity.
> (E) Exceptional Circumstances. The decision will affect a segment of the population which does not meet any of the standards in subdivisions (b)(1)(A) through (b)(1)(D), however, due to exceptional circumstances regarding the decision, it is determined such segment constitutes a significant segment of the public generally."

B. Substantially the Same Manner

Subdivision (b)(2) describes the second requirement of the exception as follows:

> "(2) Substantially the Same Manner: The governmental decision will affect a public official's economic interest in substantially the same manner as it will affect the significant segment identified in subdivision (b)(1) of this regulation." (Regulation 18707.1.)

This second requirement has been found difficult to apply by the County of San Diego and others. San Diego County comments:

> "The County of San Diego is currently preparing a general plan amendment covering the entire jurisdiction. We are attempting to implement 'smart growth' concepts, which would cluster development in the western portion of the county where water service is available. This would result in large swaths of property, including property owned by

> Board members, being either 'up-zoned' or 'down-zoned.' While more than 5,000 property owners would be affected in a similar manner, we are not sure that the 'public generally' exception would apply because we do not know the respective financial impacts on each of the properties and it would be infeasible to appraise that many properties." (July 9, 2002, comment letter by Thomas J. Harron, Special Asst. County Counsel, Office of County Counsel, County of San Diego.)

This comment shows some misunderstanding of how the rules work. Respective financial impacts on "each" of the properties may not be necessary. The assessment can be accomplished if it can be determined that the decision financially affects a segment in which all members of the segment are of the same, or substantially the same, size, location, neighborhood character, or distance. What Commission staff has found, however, is that the exception simply may not apply because the public officials are affected differently than a significant segment of the public. (See staff memorandum dated May 23, 2003, "Overview of Public Generally Regulations as Applied to General Plan Decisions") For example, public officials may own substantial amounts of property, multiplying the effect of the decision, in the aggregate, on their real property interests. Officials may hold multiple economic interests such as a residence, acreage, and businesses whereas other members of the public only own one property, residence or business. Finally, public officials may own property in close proximity to property that is the subject of the decision. In these cases, consistent with section 87100, public officials should not participate in governmental decisions.

III. SAN DIEGO COUNTY PROPOSAL

The San Diego County Counsel's office submitted its proposed regulation 18707.10.[2] The proposed regulation is attached as the "Sansone Proposal" (Proposed Regulation 18707.10 -Version 1, Attachment 1), which is applicable by its terms to general plan amendments implicating a public official's economic interests in both real property[3] and a business entity.[4] The proposal reads:

> "(a) The effect of a government decision on a public official's real property or business interests is indistinguishable from the effect on the public generally if all of the following apply:
> (1) The government decision involves an amendment to the General Plan of the public official's agency or district the public official represents.

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[2] See letter from John J. Sansone, Dec. 20, 2002.

[3] E.g., principal residence, investment property, indirectly owned property and property owned by a business entity in which the official has a 10 percent or greater ownership interest (sections 82033 and 87103(b); regulation 18703.2) .

[4] E.g., due to investment, business position, or source of income (sections 82005 and 87103(a); regulations 18703.1 and 18703.3).

> (2) The General Plan amendment applies to the entire jurisdiction of the public official's agency or district the public official represents.
> (b) Notwithstanding the applicability of subdivision (a), if the general plan amendment includes a provision that has a unique application to the specific real property or business interests of a public official, and such provision has little to no application to the other real property and business interests in the public official's agency or district, there is a rebuttable presumption that the effect of the general plan amendment on the public official's real property or business interests is not indistinguishable from the effect on the public generally."

The staff believes this proposed language should not be considered further by the Commission as discussed below.

A. Factual Assessment of Financial Effects

As mentioned above, the Act defines a conflict of interest in terms of "financial effects." (Sections 87100 and 87103.) Section 87103 states ". . . reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally . . . ."

San Diego County's proposal can be reduced to the premise that if it is reasonably foreseeable that a public official will be materially financially affected by his or her agency's decision, the official can nevertheless participate in the decision as long as it is to amend a general plan and the amendment is not "uniquely applicable" to the official's real property or business interests. This makes no allowance for weighing the financial impacts between the official and a significant segment of the public generally. This is a critical omission and results in a "*per se*" rule permitting otherwise disqualified public officials to participate in general plan decisions.

San Diego County's proposal does not incorporate the Act's "financial effects" requirement and merely relies on the widespread application of a general plan decision. By relying only on the **applicability** of a decision, rather than on its financial effect or impact, the proposal is at odds with the most basic tenant of the Act's conflict-of-interest provisions since it does not draw a connection between applicability and financial effects.

While a decision may "apply" to all persons jurisdiction-wide, the application of a decision to all persons does not alone determine the magnitude of the financial effects on such persons, which is the purpose of the current "substantially the same manner" prong of the "public generally" exception. If a public official can show that the financial effect on him or her is of similar magnitude to other persons in the applicable "significant segment," he or she can participate in the decision. "Application" of a decision is a broader term, designed to initially determine who is subject to, or potentially subject to, a particular decision, not the financial effect on that segment as compared to the financial effect on the public official.

B. Magnitude of Financial Effects

How much property or how many businesses an official owns, as well as the financial gain resulting from a particular decision, in comparison to others, is a critical aspect of the public generally "exception." (See *In re Ferraro* (1978) 4 FPPC Ops. 62, which discusses that the number of parcels owned by a public official can result in a distinguishable effect; *In re Legan* (1985) 9 FPPC Ops. 1, which discusses the significance of parcel size.) For example, if a public official owns multiple residential property units, the effect of the decision, in the aggregate, on the public official may be many times greater than the effect upon members of the significant segment which could own, on average, one residential property unit each. San Diego County's proposal does not safeguard against the possibility that a public official will stand to gain from a governmental decision in a manner indistinguishable from the public generally, because of the magnitude of the aggregate effect.

C. Multiple Interests

The proposed regulation also appears to provide no safeguards to ensure a public official applies the "public generally" exception as to each disqualifying economic interests. As a general rule, if the official is disqualified due to his principal residence and a business interest, the official must apply the "public generally " exception to both interests. (See regulation 18700.)

D. The "Significant Segment" and "Substantially the Same Manner" Two-Prong Approach

The proposal also departs significantly from the methodology the Commission uses to implement the public generally exception by employing the "unique application" approach in subdivision (b). From its initial adoption in 1976, the Commission has used the same two-pronged approach. *First*, the decision must financially affect a significant segment of the public generally and *second*, the decision must affect the public official's economic interests in substantially the same manner as it will affect that significant segment. The Commission's regulations use this two-prong analysis not only with respect to its general exception, but also with respect to specialized exceptions, including the regulation applicable to residential real property (regulation 18707.9).

The significance of this is that a "General Plan Amendment" could have a financial impact only with respect to a discrete area of the jurisdiction or a limited number of persons which, by their number, fall below the numerical standards the regulations currently define as a significant segment of the public generally. This is because the amendment, on its face, applies to the entire jurisdiction, but in reality, impacts only a few. In such situation, a public official could experience a direct financial effect, shared by enough other persons not to be considered "unique" under the County's proposal, but still less than a significant segment of the public generally.[5] In short, "applicability" provides no protection to insure that an official with a conflict of interest will not participate in a decision where he or she is biased.

At the other extreme, San Diego County's proposal recasts the "significant segment" requirement by expanding the segment to allow, for example, comparison of an official's real property to other real property. While at first blush this may not appear significant, it is a fundamental aspect of how the exception functions. Under the existing regulation, an official's disqualifying economic interest is compared against a "significant segment" that is *similarly situated* to the official's interest. For example, if an official's real property ownership triggers the disqualification, for the exception to apply, a significant segment of the public claiming a similar interest (ownership of property) must be affected. Under existing regulation 18707.1(b)(1)(B), the segment includes real property "owners" or "homeowners."

This is important in applying the second prong of the exception, the "substantially the same manner" test. Once the applicable segment is identified, an official can then compare financial impacts as to that segment of the public. For example, if an official's personal residence triggered the conflict of interest, the official would ask if the general plan decision impacted other homeowners in a similar manner. Subdivision (b) of San Diego County's proposal completely departs from the Commission's analysis.

E. Covers Amendments

Staff also takes issue with the proposal's applicability to any general plan **amendment**. The proposal, in essence, asks the public to assume that amendments that purport on their face to apply to the entire jurisdiction have global financial effects that would mitigate the material financial effect of the decision on a public official's economic interests. If one makes assumptions of this nature, it is possible that a decision to amend a general plan would not be a comprehensive amendment but one affecting specific parcels, for example. Since the term "amendments" is not defined, staff believes the proposal provides too much liberality in this respect.

F. Exception

Of greater significance is that subdivision (b) of the county counsel's proposal would eliminate the application of the "public generally" rules as an exception in the Commission's eight-step analysis. At its September 2000 meeting, the Commission considered whether statutory construction supported the treatment of the "public generally" rule as an exception under existing statutes. (Sections 87100 and 87103.) The Commission concluded that staff should continue to analyze the term "public generally"

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[5] For example, an amendment of the traffic element of a general plan might provide that all unpaved streets within the planning territory that are located within a 1/4 mile of a school must be paved. On its face, the decision applies to the entire jurisdiction. However, it could well be that the only unpaved streets in the jurisdiction within a 1/4 mile of a school are the streets providing access to the public official's principal residence, business or employer and those of his closest neighbor.

as an exception consistent with Commission's prior determinations beginning in 1976. (See staff memorandum dated August 25, 2000, "Interpretation of the 'Public Generally' Language in Section 87103.") Therefore, the "public generally" rule is not part of the establishment of the prima facie case in a conflict-of-interest situation." (*Ibid*.) The Commission confirmed its prior and long-standing treatment of the "public generally" rule as an exception to the conflict-of-interest rules and reiterated that a public official is responsible for proving that the exception may be invoked. (See Commission Meeting Minutes, September 11, 2000.)

Staff believes that San Diego County's proposal would have the effect of creating a broad presumption of non-materiality and appears to require the Commission's Enforcement Division to establish "unique effects" as part of a prima facie case under sections 87100 and 87103. As noted, this is contrary to the Commission's interpretation of these statutes. Under the Commission's treatment of "public generally" as an exception, once all the elements of a conflict of interest are present, it is a public official's responsibility to show that a "significant segment" of the public is affected by the decision and that the official's disqualifying economic interest is affected in "substantially the same manner" as other members of the public. San Diego County's proposal would establish a rebuttable presumption that no "unique effects" exist, which would make the "substantially the same manner" aspect of the exception meaningless since it would then place the responsibility on the Enforcement Division to prove unique effects.[6]

The Enforcement Division further explains:

> San Diego County is asking the Commission to create a conflict-of-interest exemption, by way of a public generally exception, for decisions involving general plan amendments. The justification for such a request is that San Diego County does not have the resources to do a public generally analysis. In particular, it seems as though San Diego County is contending that it cannot ascertain if a decision involving a general plan amendment, which has a material financial effect on an official's real property or business interests, will have substantially the same financial effect on the public generally.
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> The Enforcement Division opposes San Diego County's amendment. The amendment serves no purpose except to allow officials to participate in decisions that will have a material financial effect on their economic interests that is distinguishable from the public generally. To include a list of decisions in the general rule that are "per se" public generally sets a very bad precedent, undermines the conflict-of-interest prohibition of Section 87100, and does not further the purposes of the Act.

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[6] At what point is an effect to be considered unique? At one extreme, an effect may be considered no longer unique as long as even one other person shares in the effect. On the other end of the spectrum, an effect could be considered unique until such time as it is shared by all members of the jurisdiction. There is no "bright line" test for "unique" that would lend sufficient definition to use this word as a standard.

> If there is a problem in the public generally analysis, the solution is to make the analysis easier to apply. The remedy is not to allow officials with conflicts to participate in the governmental decision making process.

Staff Recommendation 1: Staff does not recommend adoption of the language proposed by San Diego County as presently drafted.

IV. STAFF OPTIONS

Assuming that changes are necessary with respect to the current public generally regulations, the remaining part of this memorandum discusses:

- Whether these changes should apply broadly (to any of the public official's economic interests), or more narrowly (when the economic interest(s) implicated by the decision is the official's principal residence, any interest in real property or a business entity).

- Assuming the term "substantially the same manner" needs to be defined, whether this regulatory project should offer a definition that would apply to all governmental decisions, or apply only when the governmental decision is to adopt, replace, or amend a general plan.

A. General Rule, Regulation 18707.1: Possible Amendments to Add Factors Considered When Real Property Triggers the Conflict of Interest

The Commission staff believes that to the extent the Commission considers amendments to the existing general exception, the amendments should be limited to real property interests.

Most jurisdictions require residency within the jurisdiction as a qualification for seeking elected office or being accepted for appointment to an agency. A public official, therefore, is most likely to have a conflict of interest with respect to a general plan decision when the decision's reasonably foreseeable material financial effect is on the official's economic interest in real property, specifically a principal residence. However, there does not appear to be any disadvantage in drafting language equally useful for other governmental decisions. A "general guidance" approach is embodied in proposed amended regulation 18707.1. (Attachment 2.) The draft language of regulation 18707.1 would apply when the economic interest giving rise to the conflict of interest is only the official's residence or any other real property (including leaseholds).

This language provides guidance in the form of the **factors** a public official may consider in order to demonstrate that he or she is financially affected in substantially the same manner as a significant segment of the public generally, when the effect of any governmental decision is upon the official's interest in real property.[7] The language, inserted as subdivision (b)(2)(A), reads as follows:

[7] Staff also proposes a clarifying technical change adding the word "financially" in subdivision (b)(2).

> "(A) Real property. To determine whether a decision will financially affect a public official's real property interests in substantially the same manner as it will affect the significant segment identified in subdivision (b)(1)(B) of this regulation, consideration may be given to the effect of the decision in relation to:
>
> (i) Attributes of properties owned by the official and the significant segment including, but not limited to, property location, zoning designations, current or potential use, development or income producing potential, size; or
>
> (ii) Characteristics of neighborhoods in which properties owned by the official or the significant segment are located including, but not limited to, traffic, view, privacy, intensity of use, noise levels, or air emissions." (Proposed amended regulation 18707.1(b)(2)(A).)

The above-quoted factors, except for property location and zoning designations, are the same factors described in regulation 18705.2(b)(1) as factors that will be considered to prove that a governmental decision will have a material financial effect upon a public official's economic interest in real property, when that interest is indirectly involved in that decision. These factors would focus the data collection efforts of public officials seeking to apply the public generally exception. Identifying these factors tells an official what data he or she need not consider.

While this language also codifies advice previously issued by the Commission, a number of jurisdictions attending the February 6, 2003, Interested Persons' meeting do not find this language to be concrete enough to solve their difficulties in applying the "public generally" exception. Though the language does not provide for a "bright line" rule, it does point out that critical factors are those that alter the public official's property in a concrete manner (such as by changing the zoning, income producing potential or size) or those that change the characteristics of the official's neighborhood.

Staff Recommendation 2: Staff recommends that the Commission determine whether codification of "factors" affecting all general plan decisions is a viable approach. If so, the Commission could either adopt proposed revisions to regulation 18707.1, or ask the staff to continue working on specific factors to be considered.

B. Staff Option Applicable to General Plan Decisions (Regulation 18707.10 - Version 2)

In the event the Commission considers San Diego County's idea for a stand-alone specialized form of the public generally exception to be meritorious, and that the exception should encompass real property or business interests, staff has developed language for a stand-alone proposal. (Proposed Regulation 18707.10 - version 2 (Staff Option), Attachment 3.) However, staff does not support adoption of a new regulation at this time without further assessment of its necessity.

Subdivision (a) provides that the proposed regulation would apply when a public official is disqualified due to his or her real property or business interests.

Subdivisions (a)(1)(A) and (B) apply the regulation only to certain types of decisions - the initial adoption or rejection of a general plan and amendments of general plans. However, decisions regarding amendments would be limited to comprehensive amendments to, or adoption of, at least one of the statutorily required elements of a general plan of a public official's agency. This would permit public officials to apply this exception when the circulation, noise, housing, etc. elements are being considered. However, the regulation excludes from its coverage consideration of the land use element, thereby excluding from its scope decisions where development potential, value of real property, and income are likely to be influenced by a public official.

Subdivision (a)(2) provides that the decision applies to all persons in the jurisdiction of the public official's agency. Presumably, this is the concept offered by San Diego County. If a decision is somehow designed to apply to only certain persons, this regulation would not apply. For example, if the decision only applied to businesses, the regulation would not apply.

Subdivision (a)(3) provides that the decision is not to be initiated by the public official or any person who is an economic interest to the public official. This would ensure that disqualified public officials would not be reinstated to participate in a decision when the official, or a person that caused his or her disqualification, was the proponent (or opponent) of his or her agency's actions.

Subdivision (a)(4) would apply only to amendment decisions. Generally, it provides that if a "specific circumstance" (as defined in Commission regulation 18705.2(b)(1)) caused the official's disqualification, the official could only participate if he or she could demonstrate that real property owners or homeowners (or businesses, whichever is applicable) affected by the general plan amendment made financial gains or losses in substantially the same manner as the official. With respect to general plan amendments, this would preserve the concept that a "significant segment" (all those in the jurisdiction financially affected by the amendment) is impacted in "substantially the same manner." Since initial adoptions or rejections are more general in nature and would apply to an entire jurisdiction, the Commission would obviously treat the jurisdiction as the significant segment.

Specific circumstances that can cause initial disqualification include development potential (change in value), income producing potential, and changes in the use of the property. This subdivision contains important safeguards that Commission staff believes are necessary to ensure a regulatory exception which would be consistent with section 87103. Subdivision (a)(4), however, would not apply the "specific circumstances" factor if the principal residence of an official is the only economic interest impacted.

Subdivision (a)(5) is a catch-all provision that provides that a public official's real property or business interests cannot be affected financially in a disproportionate manner from other persons in the jurisdiction or district. The underlying logic is that when a general plan decision is implemented proportionally, the financial effects on individuals in the jurisdiction of implementing the decision are indistinguishable from one another.

For example, assume a general plan decision on the environmental element mandates recycling of household trash and includes an implementation methodology requiring each residential property owner to purchase from the jurisdiction and use at his or her personal residence an approved recycling curbside disposal container. Further assume that the implementation methodology includes a $1.00 per month recycling fee to be paid for each residential property.

In this example, the purchase price of recycling containers is a financial effect applied proportionally inasmuch as some residences may require multiple containers while other residences might find one container sufficient. Since each resident is paying the same per-container fee, although the total fee each individual pays may vary, the financial effect is substantially the same.

Subdivision (b) provides that this regulation applies only if one economic interest of the official is financially affected by the decision. Therefore, if an official owns his or her residence, other property, and/or businesses, this exception would not apply.

Subdivision (c) provides that this regulation can only be applied if the governmental decision cannot be analyzed under one of the other six exceptions. Other Commission regulations already provide for specialized exceptions that embody Commission policies with respect to particular situations. [8] This subdivision was added to encourage the public to utilize those exceptions.

Staff Recommendation 3: If the Commission believes a new regulation is necessary to address the concerns raised by the public, the Commission staff recommends that the Commission consider each of the subdivisions discussed above and provide guidance to the staff with respect to the core issues found in each. These core issues include:

(a) Should real property or business interests be covered by the regulation or should it be limited to real property or personal residences?

(a)(1)(A)-(B) Should the regulation be limited to certain types of decisions? For example, should the regulation be limited to consideration of certain statutorily mandated elements of a general plan?

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[8] These include: regulation 18707.2 (Special Rule for Rates, Assessments, and Similar Decisions); regulation 18707.4 (Public Generally: Appointed Members of Boards and Commissions); regulation 18707.5 (Sources of Income to Owners of Retail Business Entities); regulation 18707.6 (States of Emergency); regulation 18707.7 (Public Generally: Industries, Trades, or Professions); and regulation 18707.9 (Public Generally – Residential Properties).

(a)(2) Should the segment be all persons (individuals and businesses) in the jurisdiction of the public official's agency?

(a)(3) Should the regulation be inapplicable where a public official initiates the process or when a person who is one of his or her economic interests initiates the actions of the official's agency?

(a)(4)(A)-(B) Should application of the regulation to amendment decisions be limited to narrow circumstances and only where a public official can prove he or she is similarly financially impacted by the general plan amendment as other persons are also affected by the amendment?

(a)(5) Should there be a catch-all provision addressing potential disproportionate effects?

(b) Should application of the regulation to amendment decisions apply when an official has only one economic interest impacted by the decisions?

(c) Should the regulation apply when the decision can be analyzed under other exceptions?

Staff realizes that the Staff Option may be viewed as being narrow. However, exceptions to the conflict-of-interest laws should be narrowly construed. Also, without knowing which economic interests the Commission would want staff to address, it is difficult to tailor one regulation that would strike a balance between the statutes and public officials' desire to participate in governmental decisions which can potentially result in significant financial gains to them.

V. ADDITIONAL RECOMMENDATION

The Commission's current publication on the eight-step standard conflict-of-interest analysis ("Can I Vote? Conflicts of Interest Overview") does not describe the public generally exception with enough specificity to apply the exception. A fact sheet focusing specifically on the public generally exception would probably assist the public, particularly if it includes regulatory changes resulting from this project.

Attachments:

Attachment 1 - Proposed Regulation 18707.10 - Version 1 (Sansone Proposal)
Attachment 2 - Proposed Amendments to Regulation 18707.1
Attachment 3 - Proposed Regulation 18707.10 - Version 2 (Staff Option)

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